

**U. S. Department of the Interior  
Bureau of Reclamation**

**Mid-Pacific Region  
Lahontan Basin Area Office  
Carson City, Nevada**

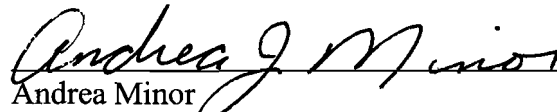
**Finding of No Significant Impact  
and  
Environmental Assessment**

**Ditch Rider Houses Demolition and Removal  
Round Two  
Churchill County, Nevada**

**September 2010**

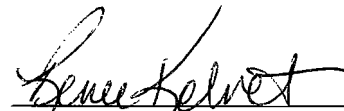
**FONSI NO. LO-10-02**

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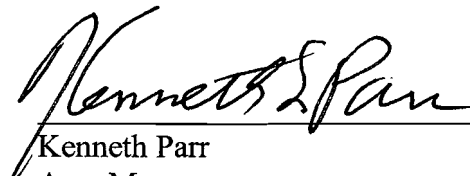
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## **FINDING OF NO SIGNIFICANT IMPACT**

### **Ditch Rider Houses Demolition and Removal, Round 2**

#### **I. Background, Proposed Action, and Purpose and Need**

The Newlands Project provides water from the Truckee and Carson Rivers for irrigation of approximately 57,000 acres in the Lahontan Valley near Fallon and Fernley in western Nevada. The ditch rider houses were built to provide housing for the operators of the irrigation facilities, and are still under Reclamation ownership. The ditch rider houses are now vacant and are no longer maintained. The associated lands are no longer necessary for project purposes.

The purpose of the proposed action is to facilitate the demolition and removal of five ditch rider houses and their associated structures, and the disposition of the associated lands. The ditch rider houses are no longer utilized or needed, and pose a human health and safety hazard. For those houses on acquired lands, the house would be demolished and removed and the land would be sold via a GSA competitively bid sale. For those houses on withdrawn lands, the house would be demolished and removed and the lands relinquished to BLM; Reclamation would retain an easement for project features.

#### **II. Summary of Impacts**

##### Proposed Action Alternative:

- Local wildlife may be displaced by the noise and disturbance during destruction and removal; these effects would be minimal and temporary.
- There may be temporary small increases in fugitive dust emissions from demolition and removal activities; these would be minimal and short-term. The contractor will be required to use a water truck on site to control blowing dust during demolition and removal.
- The demolition and removal of the houses would temporarily impact the vegetation immediately surrounding them over the short-term.
- There are no threatened or endangered species in the houses or within the immediate vicinity.
- There will be no impacts to Indian Trust Assets or water resources.
- Environmental Justice: Implementing the proposed action will not disproportionately affect minorities or low-income populations and communities.
- Hazardous materials: An asbestos survey is required under the Comprehensive Environmental Response Cleanup and Liability Act of 1980 (CERCLA).

Demolition and removal of material will be managed by the State of Nevada Office of Occupational Safety and Health Administration (OSHA). After demolition and removal of the structures is complete, a Phase 1 Hazmat survey and report will be completed by a certified inspector as part of the land conveyance process to relieve the federal government of any hazmat liabilities.

- **Historic & Cultural Resources:** The demolition and removal of the five former ditchrider houses and their associated buildings will result in an adverse effect to historic properties pursuant to 36 CFR 800.5(b). Reclamation consulted with the Nevada State Historic Preservation Officer (SHPO) on May 27, 2010 on the determinations of eligibility and finding of effect for the five ditchrider complexes and the Newlands Project Historic District. Reclamation determined that none of the five ditchrider complexes are individually eligible for inclusion in the National Register of Historic Places (National Register) but that the Newlands Project Historic District was eligible for inclusion in the National Register. The removal of a property type, the ditchrider complexes, from the eligible Newlands Project Historic District was found to be an adverse effect to historic properties. Reclamation received concurrence from the Nevada SHPO on July 9, 2010. Reclamation is continuing to consult with the Nevada SHPO under Sec. 106 of the National Historic Preservation Act (NHPA). Reclamation is currently developing a Memorandum of Agreement (MOA) with the Nevada SHPO to resolve adverse effects prior to implementation of the proposed action.

The following Cultural Resource Commitment will apply:

**No demolition or ground disturbing activities will occur at any of the locations until this MOA is signed and approved by Reclamation and the SHPO.**

No Action Alternative:

There would be no effects and no change from current conditions from the No Action Alternative to any of the resources analyzed in this EA.

Cumulative impacts / Irreversible and Irretrievable Commitments:

Other than cultural resources, there will be no effect on environmental or human resources from cumulative impacts with regards to the demolition of the former ditch rider houses and disposal of associated lands. There would be no irreversible or irretrievable commitments of resources.

### **III. Comments Received on the EA**

One public comment was received during the scoping period on the EA; this is shown as Attachment 1. The comments were addressed within the text of the EA and in Attachment 2.

#### **IV. Findings**

Reclamation prepared an environmental assessment on the impacts of demolishing and removing the ditch rider houses, and the disposition of the associated property. The EA documents that compliance has occurred with the Endangered Species Act, Section 106 of the National Historic Preservation Act, Indian Trust Assets, Clean Air Act, Clean Water Act, Environmental Justice, Fish and Wildlife Coordination Act, Migratory Bird Treaty Act, and the National Environmental Policy Act.

**The Lahontan Basin Area Office has found that the proposed action is not a major federal action that would significantly affect the quality of the human environment. Therefore, an environmental impact statement is not required for carrying out this action.**

Following are the reasons why the impacts of the proposed action are not significant:

1. There would be short-term, temporary impacts during destruction and removal to the following resources: wildlife, air quality, and vegetation.
2. There will be no impact to Threatened or Endangered Species, Indian Trust Assets, or water resources.
3. Implementing the proposed action will not disproportionately affect minorities or low-income populations and communities.
4. Hazardous materials will be handled in accordance with federal and state regulations.
5. Historic or cultural resources: As stated above and in Attachment 3 to the EA, consultation is ongoing with the Nevada SHPO under Section 106 of the National Historic Preservation Act (NHPA). Reclamation is currently developing an MOA with the Nevada SHPO to resolve adverse effects prior to implementation of the proposed action. The following Cultural Resource Commitment will apply:

**No demolition or ground disturbing activities will occur at any of the locations until this MOA is signed and approved by the SHPO and Reclamation.**

6. There are no irreversible or irretrievable commitments of resources.

# RECLAMATION

*Managing Water in the West*

## **Ditch Rider Houses Demolition and Removal Round 2**

### **Environmental Assessment**



U. S. Department of the Interior  
Bureau of Reclamation  
Lahontan Basin Area Office  
705 N. Plaza St., Room 320  
Carson City, NV 89701

September 2010



**ENVIRONMENTAL ASSESSMENT**  
**DITCH RIDER HOUSES DEMOLITION AND REMOVAL**  
**ROUND 2**

**Churchill County, Nevada**

**U.S. Bureau of Reclamation  
Lahontan Basin Area Office  
Carson City, Nevada**

**August 2010**





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## 1.0 INTRODUCTION

### 1.1 Background

The Newlands Project provides water from the Truckee and Carson Rivers for irrigation of approximately 57,000 acres in the Lahontan Valley near Fallon and Fernley in western Nevada. The ditch rider houses were built to provide housing for the operators of the irrigation facilities, and are still under Reclamation ownership. The ditch rider houses are no longer needed and are not maintained. The destruction of three houses and a garage were covered in an earlier environmental assessment. These are the Smart District House, the Factory District house, the St. Claire District house, and the Fernley District garage.

### 1.2 Locations of Ditch Rider Houses

There are five houses and three associated structures; all are located in Churchill County (Figure 1).

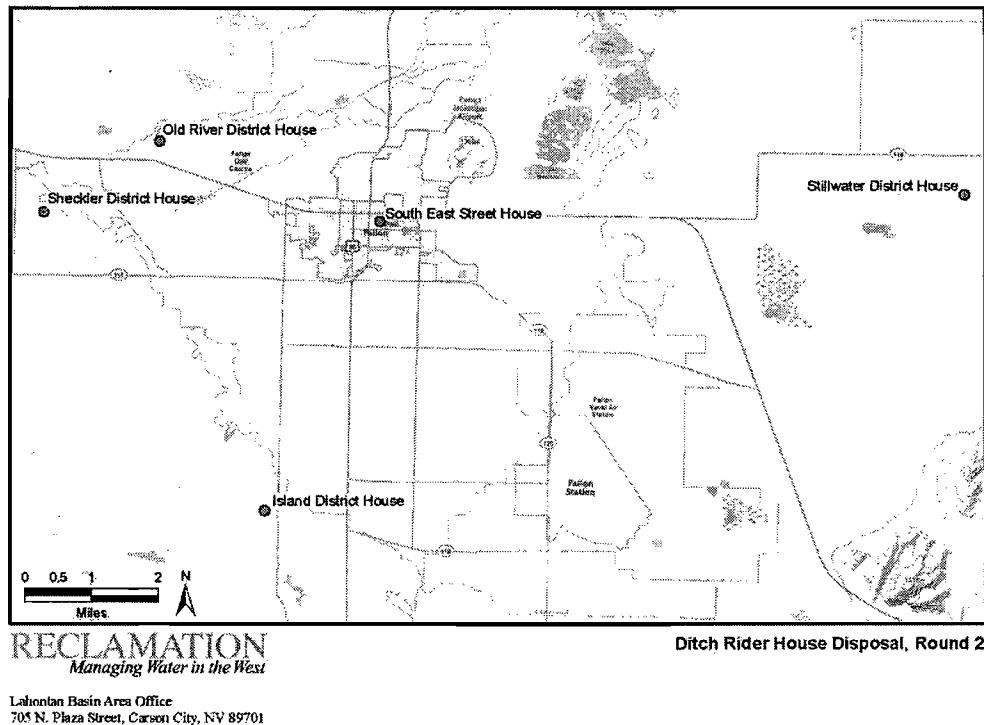


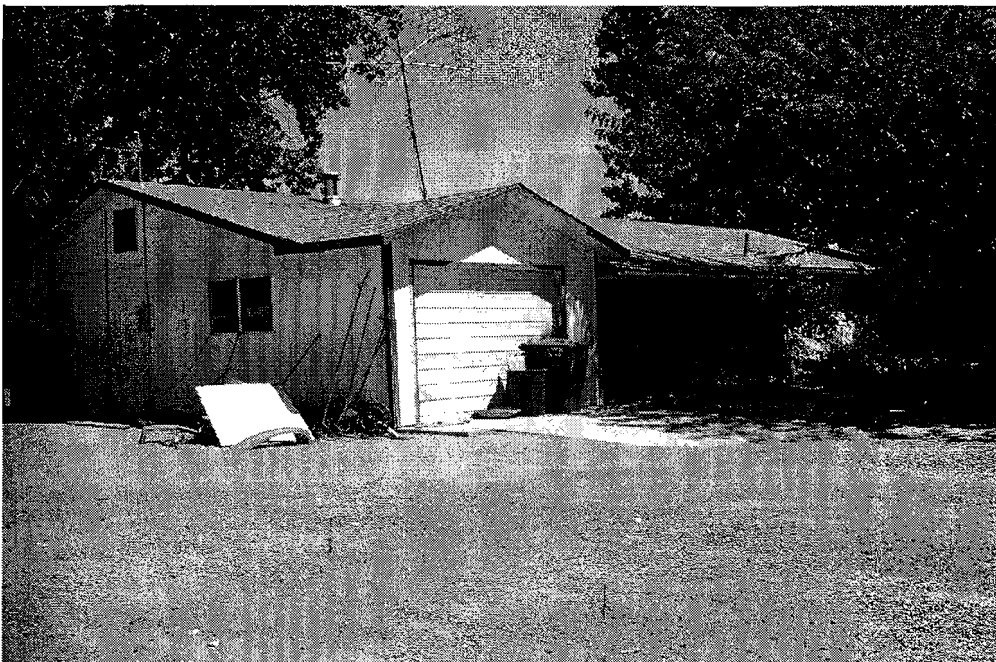
Figure 1

The Island District house (Fig. 2), built in 1910, is located in T18N, R28E, sec 23, SENE  $\frac{1}{4}$ , MDM. It is located on acquired lands.



**Figure 2. Island House**

The Old River District house (Fig 3), built in 1973, is located in T19N, R28E, sec 22, SWSW  $\frac{1}{4}$ , MDM. It is located on withdrawn lands.



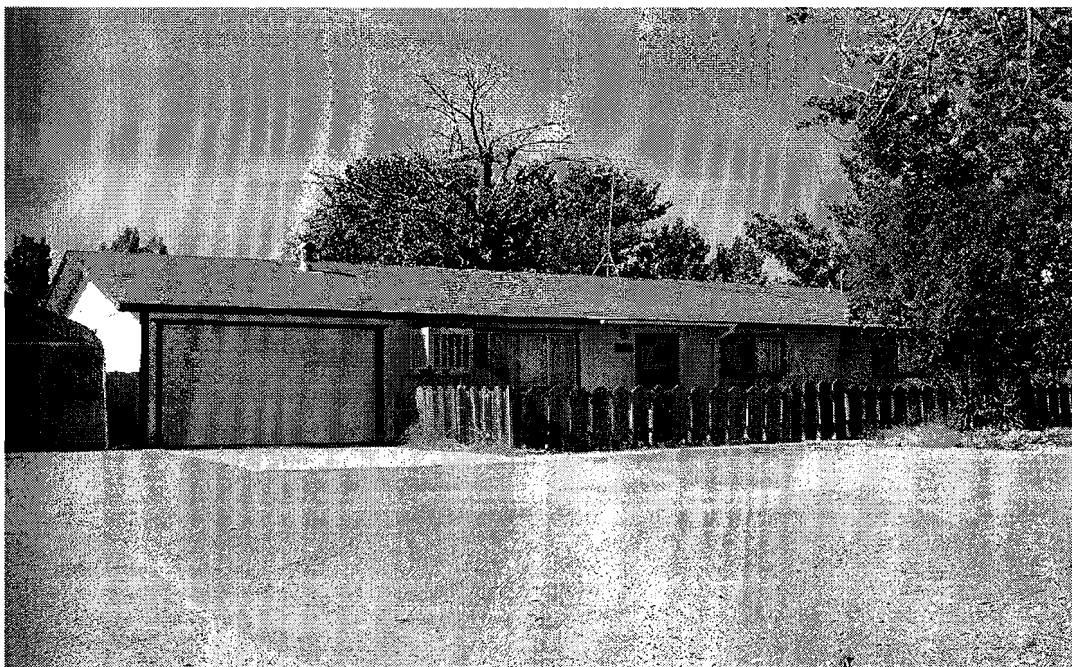
**Figure 3. Old River House**

The Sheckler District house (Fig 4), built in 1910, is located in T19N, R 28 E, sec 32, Tr. 37, MDM. It is located on withdrawn lands.



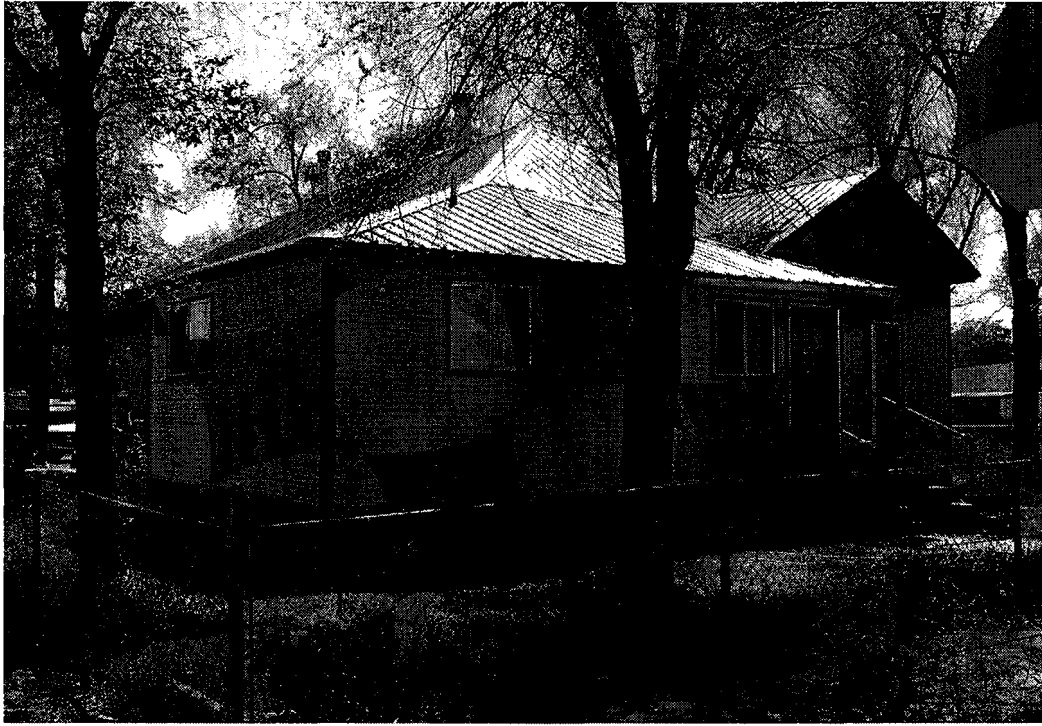
**Figure 4 Sheckler House**

The Stillwater District house (Fig 5), built in 1974, is located in T19N, R 30E, sec 27, NWSW  $\frac{1}{4}$ , MDM. It is located on withdrawn lands.



**Figure 5 Stillwater House**

The South East Street Residence (Fig 6), built in 1910, is located in T19N, R29E, sec 31, NENW ¼, MDM. It is located on acquired lands.



**Figure 6 South East Street Residence**

<b>House</b>	<b>Location</b>	<b>Land Status</b>	<b>Action</b>
Island District	T18N, R28E, Sec 23, SE ¼ NE ¼, MDM	Acquired Land	Demolish house & sell land
Old River District	T19N, R28E, Sec 22, SW ¼ SW ¼, MDM	Withdrawn Land	Demolish house & relinquish land to BLM; retain easement
Sheckler District	T19N, R28E, Sec 32, Tr 37, MDM	Withdrawn Land	Demolish house & relinquish land to BLM; retain easement
Stillwater District	T19N, R30E, Sec 27, NW ¼ SW ¼, MDM	Withdrawn Land	Demolish house & relinquish land to BLM; retain easement
South East Street	T19N, R29E, Sec 31, NE ¼ NW ¼, MDM	Acquired Land	Demolish house & sell land

### **1.3 Purpose and Need for Action**

The purpose of the proposed action is to facilitate the demolition and removal of five ditch rider houses and their associated structures. The ditch rider houses are no longer

utilized or needed, and pose a human health and safety hazard. The associated lands will be disposed of, as they are no longer needed for project purposes.

#### **1.4 Public Involvement, Consultation and Coordination**

A press release on the proposed project requesting scoping comments was released on October 7, 2009, to Reclamation's Regional "Mid-Pacific All the News" list. The list consists of television, radio, newspapers, and regional entities interested in Reclamation's actions. One comment was received from the Newlands Water Protective Association. That letter is shown as Attachment 1. Reclamation's response to this letter is shown as Attachment 2.

Reclamation initiated consultation with the Pyramid Lake Paiute Tribe and the Fallon Paiute-Shoshone Tribe on October 2, 2009. Neither Tribe replied to our request for consultation.

## **2.0 ALTERNATIVES**

### **2.1 Alternative 1 - Proposed Action:**

In May 2009, the Truckee Carson Irrigation District (TCID) sent a letter to Reclamation stating that TCID no longer requires Round 2 houses for project purposes, relinquishing their interest and need in these properties. Reclamation determined that they were no longer needed for Project purposes. Pursuant to Reclamation Manual LND 8.2, Reclamation will retain only those lands required for present and identifiable future project or program purposes. Reclamation has limited sale authority to dispose of unneeded lands. The proposed action was developed from acceptable methods of disposal of excess property.

The acquired lands under the Island District house and South East Street Residence would be sold. Reclamation would request General Services Administration (GSA) to manage the land sales.

The withdrawn lands under the Old River District, Sheckler District and Stillwater District houses would be relinquished to the Bureau of Land Management (BLM). Withdrawn land must be free of improvements prior to relinquishment to the BLM, who will make a determination that the land is not suitable for inclusion in the Public Lands management system. If BLM determines that these are unsuitable for being returned to the public domain, Reclamation would also request that GSA manage the land sales for these properties as well. Reclamation would retain an easement on these properties for associated project features. GSA will then prepare the competitively bid land sale.

Reclamation would demolish and remove all five ditch rider houses and associated structures before relinquishing the property to BLM or requesting a land sale.

For the proposed action Reclamation will prepare easements for existing delivery features and drains. Reclamation will retain existing reservations for rights-of-way from the 1890 Canal Act.

## **2.2 Alternative 2 - No Action:**

Reclamation would not demolish or remove the five houses. The hazard that exists to human health and safety would continue to exist.

## **2.3 Alternatives Considered but Dropped from Further Analysis:**

Sale of one or more of the ditch rider houses is an option Reclamation discussed internally. But, due to possible use of asbestos in the houses and the obligations of Comprehensive Environmental Response Cleanup and Liability Act of 1980 (CERCLA), the revocation requirements for withdrawn lands, and the impossibility of moving the houses from the property, Reclamation will not consider selling Ditch Rider houses.

Similarly a proposal to convert the South East Street house into a Newlands Project museum was also dropped from consideration for similar reasons. The current condition of the house and the possibility of asbestos limit the opportunities for future uses.

## **3.0 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES**

Environmental resources potentially impacted by the alternatives and other issues of concern are described in this section. The impacts include identifying any direct, indirect, or cumulative effects.

### **3.1 Site Description/Affected Environment:**

The Island District house is located on acquired lands. The lot size is approximately 2.7 acres. Besides the house, there is a well house, a corral and a work shed. The vegetation surrounding the house has been subjected to heavy disturbance for decades. No project features are located on the property. There are some large, mature cottonwood trees around the house, as well as some Russian olives, a few mature lilacs and a tree-of-heaven. The yard is predominantly lambsquarter and saltgrass.

The Old River house is located on withdrawn lands. There is an old corral in the backyard. The lot is approximately 10 acres. The T-Line Canal and T-11 Lateral are located on the property. The vegetation surrounding the house has been subjected to heavy disturbance for decades. The yard is surrounded by mature cottonwoods. There is a remnant lawn in the front yard, as well as lilacs and a mulberry. The backyard is predominantly gravel and weeds.

The Sheckler house is located on withdrawn lands. Besides the house, there is a well shed, garage and chicken coop. The lot is approximately 2.2 acres. The A-Line Canal and V-Line Canal are located on the property. The vegetation surrounding the house has

been subjected to heavy disturbance for decades. There are mature cottonwoods on the parcel, as well as a Chinese elm. The front yard has a remnant dead lawn, but the remainder of the yard is mostly dirt and weeds consisting of knotweed, cheatgrass and chenopods. A former resident had a vegetable garden at one time.

The Stillwater District house is located on withdrawn lands. There is also a well house on this parcel. The lot is approximately 5.4 acres. The S-Line Canal, S-15 Lateral, S-16 Lateral, and Harmon Deep Drain are located on the property. The vegetation surrounding the house has been subjected to heavy disturbance for decades. There are large cottonwoods at this location, Russian olives and Chinese elms. The front yard consists of weeds growing through old carpet, and the backyard is predominantly gravel with numerous weeds (saltgrass and chenopods). There is one mature yucca in the front.

The South East Street residence is on acquired land within the city of Fallon. The lot size is approximately 0.3 acres. No project features are located on the property. The vegetation surrounding the house has been subjected to heavy disturbance for decades. The yard is mostly dirt, and the only trees are Chinese elms and trees-of-heaven. There is a remnant dead lawn, but otherwise the vegetation is saltgrass and chenopods.

### **3.2 Environmental Consequences:**

The following resources are not discussed in this EA: economics, hydrology, climate, soils, floodplains and wetlands, fisheries, geology, noise, visual resources, mineral resources, recreation, land use, transportation, or energy. These resources were considered but not analyzed because they are not affected by the project.

#### **3.2.1 No Action Alternative:**

There would be no effects and no change from current conditions from the No Action Alternative to any of the resources analyzed in this EA.

#### **3.2.2 Proposed Action Alternative:**

The analysis of impacts to most resources will focus on the demolition of the houses and associated structures, unless there are specific impacts resulting from the sale of the land. It is unknown what future uses of the properties would be in the short term, but it is assumed that all properties would most likely be developed for residential purposes, so there would be no change in land use in the long term.

##### **3.2.2.1 Wildlife**

During the demolition and removal of the houses and their associated structures, local wildlife may be displaced by the noise and disturbance. These potential effects to wildlife would be minimal and temporary.



#### 3.2.2.2 Threatened and Endangered Species

There are no threatened or endangered species in the houses or within their immediate vicinity.

#### 3.2.2.3 Water Resources

There would be no impacts to groundwater from the demolition activities of the Proposed Action Alternative. The demolition and removal activities would have a very small impact area, and would have no effect on water resources. No known hazardous materials are on the sites. The demolition contractor would not have enough petroleum products on site to require a spill plan. Reclamation Safety and Health Standards will be followed during demolition and removal of buildings.

#### 3.2.2.4 Air Quality

Current air quality in the project area is good. Under the Proposed Action, there may be temporary small increases in fugitive dust emissions from demolition and removal activities. These dust emissions will be short-term and temporary. The contractor will be required to use a water truck on site to control blowing dust during demolition and removal. Much of the surface area at all locations is either gravel or paved, or has remnant sod.

#### 3.2.2.5 Vegetation

The vegetation in the vicinity of the ditch rider houses currently consists primarily of low priority weed species, with some mature cottonwood trees and ornamental shrubs. The demolition and removal of the houses would temporarily impact the vegetation immediately surrounding them over the short-term, though this impact would be short-term and temporary. No revegetation plan would be developed or implemented, as the properties would not remain in federal ownership, and future land uses may preclude the need.

#### 3.2.2.6 Historic and Cultural Resources

The National Historic Preservation Act (NHPA) of 1966, as amended, is the primary legislation that outlines the Federal government's responsibility to cultural resources. Section 106 of the NHPA requires that Federal agencies take into consideration the effects of their undertakings on historic properties. Cultural resources is a term used to describe both archaeological sites, depicting evidence of past human use of the landscape and the built environment, which is represented in structures such as dams, canals, and buildings. Historic properties are cultural resources that are listed on or eligible for inclusion in the National Register of Historic Places (National Register). The 36 CFR Part 800 regulations implement Section 106 of the NHPA and outline the procedures necessary for compliance with the NHPA.

Compliance with the Section 106 process follows a series of steps that are designed to identify historic properties and to determine what level they will be affected by the proposed Federal undertaking. The Federal agency must first determine if the proposed action is the type of action that has the potential to affect historic properties. Once that has been determined and an action, or undertaking, has been identified, the Federal agency must identify interested parties, determine the area of potential effect (APE), conduct cultural resource inventories, determine if historic properties are present within the APE, and assess effects on any identified historic properties. The Federal agency consults with the State Historic Preservation Officer (SHPO) on the APE and seeks their concurrence with the Federal agency findings and eligibility determinations.

Portions of the Newlands Project were listed in the National Register on March 25, 1981, as “Newlands Reclamation Thematic Resources.” In 2001, Hardesty and Buhr produced *The Newlands Project, Nevada: Evaluating National Register Eligibility* that presents a background on the history of the Newlands Project and its National Register eligibility. A second report, the unpublished *Newlands Project Nevada: A Multiple Property Documentation Form* (Pfaff 2002) expands on the Hardesty and Buhr (2001) report and includes a more detailed historic context. To date, no formal eligibility determination with SHPO concurrence has been made for the Newlands Project as a whole. Based on the Hardesty and Buhr (2001) recommendations, Reclamation has been treating portions of the Newlands Project as eligible for inclusion in the National Register on a project-by-project basis. Reclamation is currently consulting with SHPO on an approach to identify and document the Newlands Project as a historic district.

The historic context and property types developed by Pfaff (2002) presents a valid discussion for the eligibility of the Newlands Project under Criterion A, as defined in 36 CFR Part 60.4, because of its association with events that have made a significant contribution to the broad patterns of history. Pfaff’s context states that:

“The Newlands Project first and foremost marks the beginning of direct Federal involvement in promoting settlement of the arid American West through the development of irrigated agriculture. With passage of the Reclamation Act of 1902, the Federal government assumed a major role in designing and constructing large-scale irrigation projects throughout the West. As one of the first five projects authorized and built under the Reclamation Act, the Newlands Project (originally known as the Truckee-Carson Project) has achieved national significance. A network of water storage, diversion, and conveyance structures provides water for irrigating about 73,000 acres of farmland in an area that receives less than 4.5 inches of annual precipitation; additionally, the project generates hydroelectric power and controls flooding.”<sup>1</sup>

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<sup>1</sup> Pfaff, Chris, *Newlands Project Nevada: A Multiple Property Documentation Form*, Bureau of Reclamation, 2002, 1.

Therefore Reclamation considers that the Newlands Project as eligible for listing in the National Register under Criterion A with the themes of reclamation, irrigation, and the development of agriculture in the State of Nevada.

No Action Alternative:

Under the no action alternative, Reclamation would not move forward with any action and the ditchrider houses would remain in place. There would be no undertaking as defined by Section 301 of the NHPA (16 USC 470). Without an undertaking, Reclamation would not initiate Section 106 of the NHPA. The condition of cultural resources would be the same as under the existing conditions. No impacts to cultural resources are associated with this no action alternative.

Proposed Action Alternative:

The activities associated with the proposed action alternative include disposing of all five ditchrider houses and their associated buildings. All five of these complexes would be demolished and debris would be removed off-site. The activities for this alternative constitutes an undertaking as defined by Section 301 of the NHPA (16 USC 470), and therefore compliance with Section 106 of the NHPA is necessary. A cultural resources field inspection of the five ditchrider houses was conducted on June 16-19, 2009. A total of fourteen cultural resources at the five ditchrider sites and the Newlands Project Historic District were identified as cultural resources within the APE. Reclamation applied the National Register criteria for evaluation (36 CFR Part 60.4) to these cultural resources and determined that none of the fourteen cultural resources located at the ditchrider complexes are individually eligible for inclusion in the National Register as individual properties. However, the removal of the majority of one property type on the National Register listed Newlands Project, the ditchrider houses, would have a cumulative adverse effect to the Newlands Project Historic District. Based on this information, Reclamation consulted with the Nevada SHPO on May 27, 2010 for concurrence that none of the ditchrider complexes are individually eligible for inclusion in the National Register. The demolition and removal of the five former ditchrider houses and their associated buildings will result in an adverse effect to the Newlands Project Historic District pursuant to 36 CFR 800.5(b). Section 106 of the NHPA regulations states that adverse effects on historic properties include “the physical destruction of or damage to all or part of the property” and “the change of the character of the property’s use or of physical features within the property’s setting that contribute to its historic significance.” Reclamation received concurrence from the Nevada SHPO on July 9, 2010, and is currently developing a Memorandum of Agreement (MOA) with the Nevada SHPO to resolve adverse effects prior to implementation of the proposed action.

3.2.2.7 Indian Trust Assets

Indian Trust Resources are legal interests in property or natural resources held in trust by the United States for Indian Tribes or individuals. The Secretary of the Interior is the trustee for the United States on behalf of Indian Tribes. Examples of trust resources are lands, minerals, hunting and fishing rights, and water rights. There are no trust resources within the affected area of the ditch rider houses demolition and removal.

#### 3.2.2.8 Environmental Justice

Executive Order No. 12898, Environmental Justice, is “intended to promote nondiscrimination in Federal programs substantially affecting human health and the environment, and to provide minority and low-income communities’ access to public information on, and an opportunity for participation in, matters relating to human health and the environment.” It requires each federal agency to achieve environmental justice as part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including social and economic effects, of its programs, policies, and activities on minority and low-income populations.

EPA guidelines for evaluating potential adverse environmental effects of projects require specific identification of minority populations when a minority population either exceeds 50 percent of the population of the affected area or represents a meaningfully greater increment of the affected population than of the population of some other appropriate geographic unit.

The Proposed Action Alternative would not disproportionately affect minority or low-income populations within the community.

#### 3.2.2.9 Hazardous Materials

First responders surveyed the houses and surrounding property and determined there was no reason to believe that hazardous materials were stored on these properties. TCID removed leftover household chemicals from the houses and outbuildings.

Since the houses were constructed many years before asbestos was banned from home construction in the United States in 1990, an asbestos survey is required under the Comprehensive Environmental Response Cleanup and Liability Act of 1980 (CERCLA). The purpose of the survey is to prevent demolition workers from exposure and to assure Reclamation that materials from the job sites are properly disposed. The survey will be conducted by a state-certified asbestos inspector. Demolition and removal of material will be managed by the State of Nevada Office of Occupational Safety and Health Administration (OSHA).

After demolition and removal of the structures is complete, a Phase 1 Hazmat survey and report will be completed by a certified inspector as part of the land conveyance process to relieve the federal government of any hazmat liabilities.

## **4.0 OTHER NEPA CONSIDERATIONS**

### **4.1 Cumulative Impacts**

There will be no effect on environmental resources from cumulative impacts with regards to the demolition and removal of the five ditch rider houses, other than that mentioned in the Cultural Resources section 3.2.2.6.

### **4.2 Irreversible and Irretrievable Commitments**

*Irreversible commitments* are decisions affecting renewable resources such as soils, wetlands and waterfowl habitat. Such decisions are considered irreversible because their implementation would affect a resource that has deteriorated to the point that renewal can occur only over a long period of time or at great expense, or because they would cause the resource to be destroyed or removed.

*Irretrievable commitment* of natural resources means loss of production or use of resources as a result of a decision. It represents opportunities forgone for the period of time that a resource cannot be used. Irretrievable refers to the permanent loss of a resource including production, harvest, or use of natural resources. For example, production or loss of agricultural lands can be irretrievable, while the action itself may not be irreversible.

The demolition and removal of the five former ditch rider houses would not result in any operational changes or other physical impacts that would irreversibly or irretrievably commit renewable resources from this federal action. The sale of the properties and/or relinquishment to BLM would not constitute a loss of resources, as there are no anticipated changes in land use.

## **5.0 LIST OF PREPARERS**

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## **ATTACHMENT 1. COMMENTS FROM NWPA**

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October 21, 2009

Ms. Andrea Minor  
U. S. Bureau of Reclamation  
705 N. Plaza Street, Room 320  
Carson City, NV 89701-4015

Re: Comments to Ditch Rider Houses Demolition and Removal Project

Dear Ms. Minor:

The Newlands Water Protective Association is a Nevada non-profit corporation whose purpose is to protect and defend the water and hydropower rights of the water rights owners of the Newlands Reclamation Project. Established in 1993, NWPA has been active in assisting its membership with issues that arise that affect all water right owners in the Project.

While NWPA understands and agrees that most of the ditch rider houses identified in the news release posted on the Mid-Pacific Region's home page most certainly pose a human health and safety hazard, and NWPA supports the Irrigation District's request to remove most of these properties from the operation and maintenance schedule, we would take this opportunity to discuss and recommend the following:

1. The property located on South East Street (Churchill Co. Assessor's Parcel No. 001-674-09), within the city limits of the City of Fallon, Nevada, was conveyed by Deed dated December 13, 1918, from the Lamborns to the United States, meaning this property was not reserved to the United States but was, in fact, acquired. (See Deed Book 14, at Page 19, Deed Records, Churchill County, Nevada.) This acquisition occurred prior to the contract between the United States and the Truckee-Carson Irrigation District, and it is likely water right owner Operation and Maintenance fees were utilized to make such acquisition, or, in the alternative, that the costs associated with the acquisition of this property were included in the repayment of construction charges by the water right owners. Consequently, NWPA believes that the water right owners should be reimbursed for the value of the property.

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2. Further regarding the South East Street ditch house, NWPA believes this property to be of cultural and historical value to the community, particularly in light of it's connection to the first reclamation project authorized by Congress. NWPA believes the water right owners and general public would be better served if this property were conveyed to the irrigation district or other governmental or quasi-governmental entity (such as the Lahontan Valley Environmental Alliance), or to a 501(c) non-profit organization, for preservation and request for designation as historically significant, with an ultimate goal of conversion to a Newlands Project Museum. Such a plan also may well coincide with the City of Fallon's downtown re-development plan.
3. With regard to the Island District ditch house (Churchill Co. Assessor's Parcel No. 006-411-63, located at 2105 Sorensen Road), NWPA avers that this property, too, was acquired rather than reserved by the Reclamation Act of 1902, again before entry into the contract with the irrigation district (see Deed Book 13, page 496, Deed Records of Churchill County, Nevada). Likewise, as it is likely that the costs associated with acquiring those properties were assessed against the water right owners either through operation and maintenance or construction charges, the Newlands Project water rights owners should be reimbursed for the value of this property.
4. With regard to the Sheckler District ditch house (Churchill Co. Assessor's Parcel No. 008-654-10, located at 5555 Casey Road), our research indicates this property was reserved unto the United States by the Reclamation Act of 1902, although it appears to have been erroneously quitclaimed, without consideration, to the Truckee Carson Irrigation District by the property owner (see Document No. 297760, Official Records, Churchill County, Nevada). If the water right owners ever incurred expenses in the care and maintenance of this property, should it be sold, such expenses should be reimbursed to the water right owners out of the proceeds of the sale.
5. Our research indicates that the Stillwater District ditch house (Churchill Co. Assessor's Parcel No. 009-111-17, located at 525 Ditch House Lane) and the Old River ditch house (Churchill Co. Assessor's Parcel No. 008-451-35, located at 3800 Rice Road) were both reserved for use by the Bureau of Reclamation under the terms of the Reclamation Act of 1902. If, however, improvements were made to the properties at the expense of the water right

owners of Newlands Reclamation Project, consideration should be paid to said water right owners at the time of disposal of such properties.

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6. NWPA is aware, and it should be noted, that one individual in particular has expressed interest in acquiring one of these properties. The same may hold true for the others. Such individuals may be interested and willing to demolish or refurbish the buildings the subject of this notice, so as to save the United States such expense. NWPA supports saving the United States taxpayers' some money.
7. As in all property transactions involving older construction, issues as to the presence of asbestos or other hazardous materials or petroleum products on each property, or the existence of lead paint or its residue, must be addressed. With regard to the demolition of the structures, proper care must be given to ensure such hazardous materials are not released into the atmosphere or on to surrounding properties or into water delivery or drainage systems.
8. Attached are photographs of properties acquired by the U. S. Fish & Wildlife Service and currently held in ownership by the United States. It is imperative that any plan regarding the ditch house properties address the issues of weed management and blowing dust, and that they not be allowed to become the eyesores and nuisances we see created by the FWS.

We thank you for the opportunity to contribute our ideas and recommendations regarding the disposition of these structures and property and hope you will see them as positive and supportive of endeavors to take actions that are in the best interests of both the United States and the water right owners and citizens of the Newlands Reclamation Project. Should you have questions regarding any of the comments/suggestion made, please do not hesitate to contact me.

Sincerely,

Jamie Mills, Executive Director

cc: NWPA Board  
TCID  
City of Fallon  
Churchill County

Senator Harry Reid  
Via mail: Senator John Ensign  
Congress Member Dean Heller



## **ATTACHMENT 2. RESPONSE TO NEWLANDS WATER PROTECTIVE ASSOCIATION COMMENTS**

Reclamation received a comment letter from the Newlands Water Protective Association, dated October 21, 2009 (Attachment 1 to this EA). Jamie Mills signed the letter as Executive Director.

The comment letter addressed five main issues:

- Individuals acquiring one or more of these properties;
- The South East Street house should be converted to a Newlands Project Museum;
- Appropriate handling of hazardous materials, including asbestos or petroleum products;
- Weed management and blowing dust;
- The water rights owners should be reimbursed for the value of the property

The first four issues were addressed in the text of the EA. The concerns about individuals acquiring the properties and the Newlands Project Museum were covered in section 2.3. Hazardous materials were addressed in section 3.2.2.9. The issues of weeds and dust were covered in sections 3.2.2.4. and 3.2.2.5.

The last request, to have the water rights owners reimbursed for the value of the properties, is not possible due to numerous Reclamation directives and federal laws, including the 1911 Sale of Surplus Acquired Lands Act, which requires that “The moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project for which such lands had been acquired.”

The Reclamation manual for land disposal states that “If the project’s repayment obligation had been met, the money would be applied as a statutory credit to the project and available upon appropriation for future construction.”

Reclamation’s manual on Crediting of Incidental Revenues states: “Revenues received from the incidental use of Reclamation Project lands and facilities are federal monies and are not the property of water districts, power entities, municipalities or individuals. (Water districts, power entities, municipalities or individuals are hereinafter referred to as contractors)”.

In summary, receipts for sales of *acquired lands* are shown as a “tail end credit” for the Newlands Project; they do not go to the general Treasury, as project funds were used to acquire these lands. Receipts from the sales of *withdrawn lands* go to the Treasury because the lands never left federal ownership; no project funds were used. In either case, administrative costs of both GSA and Reclamation can be deducted from the proceeds of the sale.

### ATTACHMENT 3. CULTURAL RESOURCES COMMITMENTS

The demolition and removal of the five former ditchrider houses and their associated buildings will result in an adverse effect to historic properties pursuant to 36 CFR 800.5(b). Reclamation consulted with the Nevada State Historic Preservation Officer (SHPO) on May 27, 2010 on the determinations of eligibility and finding of effect for the five ditchrider complexes and the Newlands Project Historic District. Reclamation determined that none of the five ditchrider complexes are individually eligible for inclusion in the National Register of Historic Places (National Register) but that the Newlands Project Historic District was eligible for inclusion in the National Register. The removal of a property type, the ditchrider complexes, from the eligible Newlands Project Historic District was found to be an adverse effect to historic properties. Reclamation received concurrence from the Nevada SHPO on July 9, 2010. Reclamation is continuing to consult with the Nevada SHPO under Sec. 106 of the National Historic Preservation Act (NHPA). Reclamation is currently developing a Memorandum of Agreement (MOA) with the Nevada SHPO to resolve adverse effects prior to implementation of the proposed action.

The Reclamation Manual Directive and Standard LND02-01, section 3. D(1)(a) states in part: "...If such compliance is not completed prior to conclusion of the NEPA documentation, the NEPA document will contain commitments for Reclamation to complete the cultural resources compliance process."

The following Cultural Resource Commitment will apply:

**No demolition or ground disturbing activities will occur at any of the locations until this MOA is signed and approved by Reclamation and the SHPO.**